

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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DANIEL VASQUEZ,

NOT FOR PUBLICATION

Petitioner,
-against-

MEMORANDUM AND ORDER

DARWIN LaCLAIR, Superintendent, Franklin
Correctional Facility,

13-CV-7373 (PKC) (MDG)

Respondent.

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CHEN, United States District Judge:

On December 26, 2013, petitioner Daniel Vasquez, appearing *pro se*, filed this petition under 28 U.S.C. § 2254 for a writ of habeas corpus. Petitioner challenges his January 23, 2008 judgment of conviction for attempted robbery in the first degree, menacing in the second degree and criminal possession of a weapon in the second degree before the New York Supreme Court, Queens County. Petitioner paid the filing fee to commence this action.

On December 13, 2013, an identical petition for a writ of habeas corpus was transferred to this Court from the Northern District of New York. *See Vasquez v. LaClair*, No. 13-CV-7136 (SLT)(LB). By Order to Show Cause dated December 16, 2013, the Honorable Sandra L. Townes directed the Government to respond to the petition. (ECF Doc. #5).

“As part of its general power to administer its docket, a district court may stay or dismiss a suit that is duplicative of another federal court suit.” *Curtis v. Citibank, N.A.*, 226 F.3d 133, 138 (2d Cir. 2000) (noting that in exercising this discretion, federal courts are required to “consider the equities of the situation”). Therefore, the Second Circuit has held that “plaintiffs have no right to maintain two actions on the same subject in the same court, against the same defendant at the same time.” *Curtis*, 226 F.3d at 139. No useful purpose would be served by maintaining this duplicate petition against respondent.

Conclusion

Accordingly, the petition is dismissed as a duplicate of the petition currently pending under docket number 13-CV-7136 (SLT)(LB). Similarly, petitioner is denied a certificate of appealability as he has failed to make a “substantial showing of the denial of a constitutional right” for this duplicate submission. 28 U.S.C. § 2253(c)(2). This Order is made without prejudice to the litigation pending before Judge Townes in 13-CV-7136 (SLT)(LB).

The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this Order would not be taken in good faith and therefore *in forma pauperis* status is denied for the purpose of an appeal. *Coppedge v. United States*, 369 U.S. 438, 444-45 (1962).

SO ORDERED.

/s/ Pamela K. Chen
Pamela K. Chen
United States District Judge

Dated: Brooklyn, New York
January 7, 2014